

[DISCUSSION DRAFT]

JULY 8, 2011

112TH CONGRESS
1ST SESSION

H. R. _____

To amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49,**
2 **UNITED STATES CODE; TABLE OF CONTENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the
4 “Pipeline Infrastructure and Community Protection Act
5 of 2011”.

6 (b) AMENDMENT OF TITLE 49, UNITED STATES
7 CODE.—Except as otherwise expressly provided, whenever
8 in this Act an amendment or repeal is expressed in terms
9 of an amendment to, or a repeal of, a section or other
10 provision, the reference shall be considered to be made to
11 a section or other provision of title 49, United States
12 Code.

13 (c) TABLE OF CONTENTS.—The table of contents for
14 this Act is as follows:

- Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
- Sec. 2. Civil penalties.
- Sec. 3. Pipeline damage prevention.
- Sec. 4. Gas and hazardous liquid gathering lines.
- Sec. 5. Automatic and remote-controlled shut-off valves.
- Sec. 6. Excess flow valves.
- Sec. 7. Integrity management.
- Sec. 8. Public education and awareness.
- Sec. 9. Cast iron gas pipelines.
- Sec. 10. Leak detection.
- Sec. 11. Incident notification.
- Sec. 12. Transportation-related onshore facility response plan compliance.
- Sec. 13. Pipeline infrastructure data collection.
- Sec. 14. International cooperation and consultation.
- Sec. 15. Transportation-related oil flow lines.
- Sec. 16. Alaska project coordination.
- Sec. 17. Cost recovery for design reviews.
- Sec. 18. Special permits.
- Sec. 19. Biofuel pipelines.
- Sec. 20. Carbon dioxide pipelines.
- Sec. 21. Study of the transportation of diluted bitumen.
- Sec. 22. Study of non-petroleum hazardous liquids transported by pipeline.
- Sec. 23. Clarifications.
- Sec. 24. Additional resources.

Sec. 25. Maintenance of effort.

Sec. 26. Administrative enforcement process.

Sec. 27. Authorization of appropriations.

1 SEC. 2. CIVIL PENALTIES.

2 (a) PENALTY CONSIDERATIONS; MAJOR CON-
3 SEQUENCE VIOLATIONS.—Section 60122 is amended—

4 (1) by striking “the ability to pay,” in sub-
5 section (b)(1)(B);

6 (2) by redesignating subsections (c) through (f)
7 as subsections (d) through (g), respectively; and

8 (3) by inserting after subsection (b) the fol-
9 lowing:

10 “(c) PENALTIES FOR MAJOR CONSEQUENCE VIOLA-
11 TIONS.—

12 “(1) IN GENERAL.—A person that the Sec-
13 retary of Transportation decides, after written notice
14 and an opportunity for a hearing, has knowingly and
15 willfully committed a major consequence violation of
16 section 60114(b), 60114(d), or 60118(a) of this title
17 or a regulation prescribed or order issued under this
18 chapter is liable to the United States Government
19 for a civil penalty of not more than \$250,000 for
20 each violation. A separate violation occurs for each
21 day the violation continues. The maximum civil pen-
22 alty under this paragraph for a related series of
23 major consequence violations is \$2,500,000.

1 “(2) PENALTY CONSIDERATIONS.—In deter-
2 mining the amount of a civil penalty for a major
3 consequence violation under this subsection, the Sec-
4 retary shall consider the factors prescribed in sub-
5 section (b).

6 “(3) MAJOR CONSEQUENCE VIOLATION DE-
7 FINED.—In this subsection, the term ‘major con-
8 sequence violation’ means a violation that contrib-
9 uted to a pipeline incident resulting in—

10 “(A) 1 or more deaths;

11 “(B) 1 or more injuries or illnesses requir-
12 ing in-patient hospitalization; or

13 “(C) environmental harm exceeding
14 \$250,000 in estimated damages to the environ-
15 ment including property loss, other than the
16 value of natural gas or hazardous liquid lost
17 and damage to pipeline equipment.”.

18 (b) PENALTY FOR INTENTIONAL OBSTRUCTION OF
19 INSPECTIONS AND INVESTIGATIONS.—Section 60118(e) is
20 amended by adding at the end the following: “The Sec-
21 retary may impose a civil penalty under section 60122 on
22 a person who intentionally obstructs or prevents the Sec-
23 retary from carrying out inspections or investigations
24 under this chapter.”.

1 (c) ADMINISTRATIVE PENALTY CAPS INAPPLI-
2 CABLE.—Section 60120(a)(1) is amended by adding at the
3 end the following: “The maximum amount of civil pen-
4 alties for administrative enforcement actions under section
5 60122 shall not apply to enforcement actions under this
6 section.”.

7 (d) JUDICIAL REVIEW OF ADMINISTRATIVE EN-
8 FORCEMENT ORDERS.—Section 60119(a) is amended—

9 (1) in the subsection heading by striking “AND
10 WAIVER ORDERS” and inserting “, ORDERS, AND
11 OTHER FINAL AGENCY ACTIONS”; and

12 (2) by striking “about an application for a
13 waiver under section 60118(c) or (d) of” and insert-
14 ing “under”.

15 **SEC. 3. PIPELINE DAMAGE PREVENTION.**

16 (a) MINIMUM STANDARDS FOR STATE ONE-CALL
17 NOTIFICATION PROGRAMS.—Section 6103(a) is amended
18 to read as follows:

19 “(a) MINIMUM STANDARDS.—

20 “(1) IN GENERAL.—In order to qualify for a
21 grant under section 6106, a State one-call notifica-
22 tion program shall, at a minimum, provide for—

23 “(A) appropriate participation by all un-
24 derground facility operators, including all gov-
25 ernment operators;

1 “(B) appropriate participation by all exca-
2 vators, including all government and contract
3 excavators; and

4 “(C) flexible and effective enforcement
5 under State law with respect to participation in,
6 and use of, one-call notification systems.

7 “(2) EXEMPTIONS PROHIBITED.—A State one-
8 call notification program may not exempt mecha-
9 nized excavation, municipalities, State agencies, or
10 their contractors from its one-call notification sys-
11 tem requirements.”.

12 (b) STATE DAMAGE PREVENTION PROGRAMS.—Sec-
13 tion 60134(a) is amended—

14 (1) by striking “and” after the semicolon in
15 paragraph (1);

16 (2) by striking “(b).” in paragraph (2)(B) and
17 inserting “(b); and”; and

18 (3) by adding at the end the following:

19 “(3) does not provide any exemptions to mecha-
20 nized excavation, municipalities, State agencies, or
21 their contractors from its one-call notification sys-
22 tem requirements.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect 2 years after the date of en-
25 actment of this Act.

1 **SEC. 4. GAS AND HAZARDOUS LIQUID GATHERING LINES.**

2 Not later than 1 year after the date of enactment
3 of this Act, the Secretary of Transportation shall complete
4 a review of all exemptions for gas and hazardous liquid
5 gathering lines located onshore and offshore in the United
6 States, including within the inlets of the Gulf of Mexico.
7 Based on this review the Secretary shall submit a report
8 to the Senate Committee on Commerce, Science, and
9 Transportation and the House of Representatives Com-
10 mittee on Transportation and Infrastructure and Com-
11 mittee on Energy and Commerce containing the Sec-
12 retary's recommendations with respect to—

13 (1) the sufficiency of existing regulations and
14 exemptions to ensure pipeline safety;

15 (2) the economical and technical practicability
16 of applying existing regulations on currently unregu-
17 lated gathering lines; and

18 (3) the modification or revocation of existing
19 exemptions.

20 **SEC. 5. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF**
21 **VALVES.**

22 Section 60102 is amended by adding at the end the
23 following:

24 “(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-
25 OFF VALVES.—Not later than 2 years after the date of
26 enactment of the Pipeline Infrastructure and Community

1 Protection Act of 2011, the Secretary shall by regulation,
2 after notice and an opportunity for a hearing, require the
3 use of automatic or remote-controlled shut-off valves, or
4 equivalent technology, where economically, technically,
5 and operationally feasible on transmission pipelines con-
6 structed or entirely replaced after the date on which the
7 Secretary issues a final rule.”.

8 **SEC. 6. EXCESS FLOW VALVES.**

9 Section 60109(e)(3) is amended—

10 (1) by redesignating subparagraph (B) as sub-
11 paragraph (C); and

12 (2) by inserting after subparagraph (A) the fol-
13 lowing:

14 “(B) DISTRIBUTION BRANCH SERVICES,
15 MULTIFAMILY FACILITIES, AND SMALL COM-
16 MERCIAL FACILITIES.—Not later than 2 years
17 after the date of enactment of the Pipeline In-
18 frastructure and Community Protection Act of
19 2011, the Secretary shall by regulation, after
20 notice and an opportunity for a hearing, require
21 the use of excess flow valves, or equivalent tech-
22 nology, where economically, technically, and
23 operationally feasible on new or entirely re-
24 placed distribution branch services, multifamily
25 facilities, and small commercial facilities.”.

1 **SEC. 7. INTEGRITY MANAGEMENT.**

2 (a) **EVALUATION.**—Not later than 1 year after the
3 date of enactment of this Act, the Secretary of Transpor-
4 tation shall evaluate whether integrity management sys-
5 tem requirements, or elements thereof, should be expanded
6 beyond high consequence areas (as described in section
7 60109(a) of title 49, United States Code) for natural gas
8 and hazardous liquid transmission lines.

9 (b) **RECOMMENDATIONS.**—Based on the evaluation
10 conducted under subsection (a), the Secretary shall submit
11 a report to the Senate Committee on Commerce, Science,
12 and Transportation and the House of Representatives
13 Committee on Transportation and Infrastructure and
14 Committee on Energy and Commerce containing the Sec-
15 retary's recommendations concerning expansion of integ-
16 rity management system requirements beyond high con-
17 sequence areas.

18 (c) **FACTORS.**—The evaluation conducted under sub-
19 section (a), and the recommendations made under sub-
20 section (b), shall be based on an examination of the fol-
21 lowing factors:

22 (1) The continuing priority to reduce risks in
23 currently defined high consequence areas.

24 (2) A comparison of the relative benefits of ex-
25 panding integrity management principles, or ele-
26 ments thereof, in a manner that emphasizes reduc-

1 ing risks for an increasing number of people living
2 or working in close proximity to pipelines, versus an
3 emphasis on expanding the number of pipeline miles
4 covered absent such a risk evaluation.

5 (3) The need to undertake integrity manage-
6 ment assessments and repairs in a manner which is
7 achievable and sustainable, and which does not dis-
8 rupt pipeline service.

9 (d) CLASS LOCATION REGULATION REDUNDANCY.—
10 Not later than 2 years after the date of enactment of this
11 Act, the Secretary shall prescribe regulations, after notice
12 and opportunity for hearing, that eliminate class location
13 regulations for gas transmission pipeline facilities that are
14 regulated under the integrity management program (as
15 defined in section 60109(c)(2) of title 49, United States
16 Code).

17 (e) DATA REPORTING.—The Secretary shall collect
18 any relevant data necessary to complete the evaluation re-
19 quired by subsection (a) and the recommendations re-
20 quired by subsection (b), and may collect additional data
21 pursuant to regulations promulgated under subsection (c)
22 as necessary.

23 (f) TECHNICAL CORRECTION.—Section
24 60109(c)(3)(B) is amended to read as follows:

1 “(B) Subject to paragraph (5), periodic re-
2 assessments of the facility, at a minimum of
3 once every 7 calendar years (not to exceed 90
4 months), using methods described in subpara-
5 graph (A).”.

6 **SEC. 8. PUBLIC EDUCATION AND AWARENESS.**

7 (a) IN GENERAL.—Chapter 601 is amended by add-
8 ing at the end the following:

9 **“§ 60138. Public education and awareness**

10 “(a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of the Pipeline Infrastructure and Com-
12 munity Protection Act of 2011, the Secretary shall—

13 “(1) maintain a monthly updated summary of
14 all completed and final natural gas and hazardous
15 liquid pipeline inspections conducted by or reported
16 to the Pipeline and Hazardous Materials Safety Ad-
17 ministration that includes—

18 “(A) identification of the operator in-
19 spected;

20 “(B) the type of inspection;

21 “(C) the results of the inspection, includ-
22 ing any deficiencies identified; and

23 “(D) any corrective actions required to be
24 taken by the operator to remediate such defi-
25 ciencies; and

1 “(2) excluding any proprietary or security-sen-
2 sitive information, as part of the National Pipeline
3 Mapping System maintain a map of all currently
4 designated high consequence areas in which pipelines
5 are required to meet integrity management safety
6 regulations, and update the map annually.

7 “(b) PUBLIC AVAILABILITY.—The requirements of
8 subsection (a) shall be satisfied if the information required
9 to be made public is made available on the Pipeline and
10 Hazardous Materials Safety Administration’s public Web
11 site.

12 “(c) RELATIONSHIP TO FOIA.—Nothing in this sec-
13 tion shall be construed to require disclosure of information
14 or records that are exempt from disclosure under section
15 552 of title 5.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 601 is amended by inserting after the item
18 relating to section 60137 the following:

 “60138. Public education and awareness.”.

19 **SEC. 9. CAST IRON GAS PIPELINES.**

20 (a) SURVEY UPDATE.—Not later than 1 year after
21 the date of enactment of this Act, the Secretary of Trans-
22 portation shall conduct a follow-on survey to the survey
23 conducted under section 60108(d) of title 49, United
24 States Code, to determine—

1 (1) the extent to which each operator has
2 adopted a plan for the safe management and re-
3 placement of cast iron pipelines;

4 (2) the elements of the plan, including the an-
5 ticipated rate of replacement; and

6 (3) the progress that has been made.

7 (b) SURVEY FREQUENCY.—Section 60108(d) is
8 amended by adding at the end the following new para-
9 graph:

10 “(4) The Secretary shall conduct a follow-up survey
11 to measure progress of plan implementation biannually.”.

12 **SEC. 10. LEAK DETECTION.**

13 (a) LEAK DETECTION STUDY UPDATE.—Not later
14 than 1 year after the date of enactment of this Act, the
15 Secretary of Transportation shall submit to the Senate
16 Committee on Commerce, Science, and Transportation
17 and the House of Representatives Committee on Trans-
18 portation and Infrastructure and Committee on Energy
19 and Commerce an updated report on leak detection sys-
20 tems utilized by operators of hazardous liquid pipelines
21 and transportation-related flow lines. The report shall in-
22 clude an analysis of the technical limitations of current
23 leak detection systems, including the systems’ ability to
24 detect ruptures and small leaks that are ongoing or inter-

1 mittent, and what can be done to foster development of
2 better technologies.

3 (b) LEAK DETECTION STANDARDS.—Not later than
4 2 years after completion of the report, the Secretary shall,
5 based on the study in subsection (a), prescribe regulations,
6 after notice and an opportunity for a hearing, requiring
7 an operator of a hazardous liquid pipeline to use leak de-
8 tection technologies, particularly in high consequence
9 areas.

10 **SEC. 11. INCIDENT NOTIFICATION.**

11 (a) REVIEW OF PROCEDURES.—Not later than 18
12 months after the date of enactment of this Act, the Sec-
13 retary of Transportation shall review procedures for the
14 National Response Center to provide thorough and coordi-
15 nated notification to all relevant State and local emer-
16 gency response officials and revise such procedures as ap-
17 propriate.

18 (b) TELEPHONIC NOTICE OF CERTAIN INCIDENTS.—

19 (1) IN GENERAL.—Chapter 601, as amended by
20 this Act, is further amended by adding at the end
21 the following:

22 **“§ 60139. Telephonic notice of certain incidents**

23 “(a) IN GENERAL.—An owner or operator of a pipe-
24 line facility shall provide immediate telephonic notice of—

1 “(1) a release of hazardous liquid or another
2 substance regulated under this chapter, resulting in
3 an event for which notice is required under this
4 chapter; and

5 “(2) a release of gas resulting in an incident,
6 as defined in section 191.3 of title 49, Code of Fed-
7 eral Regulations.

8 “(b) IMMEDIATE TELEPHONIC NOTICE DEFINED.—
9 In subsection (a), the term ‘immediate telephonic notice’
10 means telephonic notice, as described in section 191.5 of
11 such title, to the National Response Center at the earliest
12 practicable moment following discovery of a release of gas
13 or hazardous liquid and not later than one hour following
14 the time of such discovery.

15 “(c) ESTIMATES OF RELEASE VOLUMES.—When
16 providing immediate telephonic notice under subsection
17 (a), the owner or operator of a pipeline facility shall esti-
18 mate the general volume of a release using ranges such
19 as ‘small,’ ‘medium,’ ‘large,’ and ‘very large,’ with the vol-
20 ume of such ranges, but shall not be required to provide
21 a numerical estimate of the size of the release. The owner
22 or operator shall be allowed to revise an estimate to pro-
23 vide more specific information, including, but not limited
24 to, a numerical estimate of the size of the release.

1 “(d) REFERENCES.—Any reference to a regulation in
2 this section means the regulation as in effect on the date
3 of enactment of this section.”.

4 (2) CLERICAL AMENDMENT.—The table of sec-
5 tions for chapter 601 is amended by inserting after
6 the item relating to section 60138 the following:

“60139. Telephonic notice of certain incidents.”.

7 (c) STANDARDS.—Not later than 2 years after the
8 date of enactment of this Act, the Secretary of Transpor-
9 tation shall prescribe regulations, after notice and an op-
10 portunity for comment, defining the meaning of the terms
11 “discovery”, “small”, “medium”, “large”, and “very
12 large” as used in section 60139(c) of title 49, United
13 States Code, as added by subsection (b) of this section.

14 **SEC. 12. TRANSPORTATION-RELATED ONSHORE FACILITY**
15 **RESPONSE PLAN COMPLIANCE.**

16 (a) IN GENERAL.—Subparagraphs (A), (B), and (C)
17 of section 311(m)(2) of the Federal Water Pollution Con-
18 trol Act (33 U.S.C. 1321(m)(2)) are amended to read as
19 follows:

20 “(A) RECORDKEEPING.—Whenever re-
21 quired to carry out the purposes of this section,
22 the Administrator, the Secretary of Transpor-
23 tation, or the Secretary of the department in
24 which the Coast Guard is operating shall re-
25 quire the owner or operator of a facility to

1 which this section applies to establish and
2 maintain such records, make such reports, in-
3 stall, use, and maintain such monitoring equip-
4 ment and methods, and provide such other in-
5 formation as the Administrator, the Secretary
6 of Transportation, or Secretary of the depart-
7 ment in which the Coast Guard is operating, as
8 the case may be, may require to carry out the
9 objectives of this section.

10 “(B) ENTRY AND INSPECTION.—Whenever
11 required to carry out the purposes of this sec-
12 tion, the Administrator, the Secretary of Trans-
13 portation, or the Secretary of the Department
14 in which the Coast Guard is operating or an au-
15 thorized representative of the Administrator,
16 the Secretary of Transportation, or Secretary of
17 the department in which the Coast Guard is op-
18 erating, upon presentation of appropriate cre-
19 dentials, may—

20 “(i) enter and inspect any facility to
21 which this section applies, including any
22 facility at which any records are required
23 to be maintained under subparagraph (A);
24 and

1 “(ii) at reasonable times, have access
2 to and copy any records, take samples, and
3 inspect any monitoring equipment or meth-
4 ods required under subparagraph (A).

5 “(C) ARRESTS AND EXECUTION OF WAR-
6 RANTS.—Anyone authorized by the Adminis-
7 trator, the Secretary of Transportation, or the
8 Secretary of the department in which the Coast
9 Guard is operating to enforce the provisions of
10 this section with respect to any facility may—

11 “(i) with or without a warrant, arrest
12 any person who violates the provisions of
13 this section or any regulation issued there-
14 under in the presence or view of the person
15 so authorized; and

16 “(ii) execute any warrant or process
17 issued by an officer or court of competent
18 jurisdiction.”.

19 (b) CONFORMING AMENDMENT.—Section
20 311(b)(6)(A) of the Federal Water Pollution Control Act
21 (33 U.S.C. 1321(b)(6)(A)) is amended by striking “oper-
22 ating or” and inserting “operating, the Secretary of
23 Transportation, or”.

1 **SEC. 13. PIPELINE INFRASTRUCTURE DATA COLLECTION.**

2 (a) IN GENERAL.—Section 60132(a) is amended by
3 adding at the end the following:

4 “(4) Any other geospatial or technical data, in-
5 cluding design and material specifications of cur-
6 rently regulated pipelines, that the Secretary deter-
7 mines is necessary to carry out the purposes of this
8 section. The Secretary shall give reasonable notice to
9 operators that the data are being requested.”.

10 (b) DISCLOSURE LIMITED TO FOIA REQUIRE-
11 MENTS.—Section 60132 is amended by adding at the end
12 the following:

13 “(d) PUBLIC DISCLOSURE LIMITED.—The Secretary
14 may not disclose information collected pursuant to sub-
15 section (a) except to the extent permitted by section 552
16 of title 5.”.

17 **SEC. 14. INTERNATIONAL COOPERATION AND CONSULTA-**
18 **TION.**

19 Section 60117 is amended by adding at the end the
20 following:

21 “(o) INTERNATIONAL COOPERATION AND CONSULTA-
22 TION.—

23 “(1) INFORMATION EXCHANGE AND TECHNICAL
24 ASSISTANCE.—If the Secretary determines that it
25 would benefit the United States, subject to guidance
26 from the Secretary of State, the Secretary may en-

1 gage in activities supporting cooperative inter-
2 national efforts to share information about the risks
3 to the public and the environment from pipelines
4 and means of protecting against those risks. Such
5 cooperation may include the exchange of information
6 with domestic and appropriate international organi-
7 zations to facilitate efforts to develop and improve
8 safety standards and requirements for pipeline
9 transportation in or affecting interstate or foreign
10 commerce.

11 “(2) CONSULTATION.—To the extent prac-
12 ticable, subject to guidance from the Secretary of
13 State, the Secretary may consult with interested au-
14 thorities in Canada, Mexico, and other interested au-
15 thorities, as needed, to ensure that the respective
16 pipeline safety standards and requirements pre-
17 scribed by the Secretary and those prescribed by
18 such authorities are consistent with the safe and re-
19 liable operation of cross-border pipelines.

20 “(3) DIFFERENCES IN INTERNATIONAL STAND-
21 ARDS AND REQUIREMENTS.—Nothing in this section
22 requires that a standard or requirement prescribed
23 by the Secretary under this chapter be identical to
24 a standard or requirement adopted by a foreign or
25 international authority.”.

1 **SEC. 15. TRANSPORTATION-RELATED OIL FLOW LINES.**

2 Section 60102, as amended by section 5, is further
3 amended by adding at the end the following:

4 “(o) TRANSPORTATION-RELATED OIL FLOW
5 LINES.—

6 “(1) DATA COLLECTION.—The Secretary may
7 collect geospatial or technical data on transpor-
8 tation-related oil flow lines, including unregulated
9 transportation-related oil flow lines.

10 “(2) TRANSPORTATION-RELATED OIL FLOW
11 LINE DEFINED.—In this subsection, the term ‘trans-
12 portation-related oil flow line’ means a pipeline
13 transporting oil off of the grounds of the well where
14 it originated across areas not owned by the pro-
15 ducer, regardless of the extent to which the oil has
16 been processed, if at all.

17 “(3) LIMITATION.—Nothing in this subsection
18 authorizes the Secretary to prescribe standards for
19 the movement of oil through production, refining, or
20 manufacturing facilities, or through oil production
21 flow lines located on the grounds of wells.”.

22 **SEC. 16. ALASKA PROJECT COORDINATION.**

23 (a) IN GENERAL.—Chapter 601, as amended by this
24 Act, is further amended by adding at the end the fol-
25 lowing:

1 **“§ 60140. Alaska project coordination**

2 “The Secretary may provide technical assistance to
3 the State of Alaska for the purpose of achieving coordi-
4 nated and effective oversight of the construction and oper-
5 ation of new and prospective pipeline systems in Alaska.

6 The assistance may include—

7 “(1) conducting coordinated inspections of pipe-
8 line systems subject to the respective authorities of
9 the Department of Transportation and the State of
10 Alaska;

11 “(2) consulting on the development and imple-
12 mentation of programs designed to manage the in-
13 tegrity risks associated with operating pipeline sys-
14 tems in the unique conditions of Alaska;

15 “(3) training inspection and enforcement per-
16 sonnel and consulting on the development and imple-
17 mentation of inspection protocols and training pro-
18 grams; and

19 “(4) entering into cooperative agreements,
20 grants, or other transactions with the State of Alas-
21 ka, the Joint Pipeline Office, other Federal agencies,
22 and other public and private agencies to carry out
23 the objectives of this section.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 601 is amended by inserting after the item
3 relating to section 60139 the following:

“60140. Alaska project coordination.”.

4 **SEC. 17. COST RECOVERY FOR DESIGN REVIEWS.**

5 (a) Section 60117(n) is amended to read as follows:

6 “(n) COST RECOVERY FOR DESIGN REVIEWS.—

7 “(1) IN GENERAL.—

8 “(A) REVIEW COSTS.—For any project de-
9 scribed in subparagraph (B), if the Secretary
10 conducts facility design safety reviews in con-
11 nection with a proposal to construct, expand, or
12 operate a new gas or hazardous liquid pipeline
13 or liquefied natural gas pipeline facility, includ-
14 ing construction inspections and oversight, the
15 Secretary may require the person or entity pro-
16 posing the project to pay the costs incurred by
17 the Secretary relating to such reviews. If the
18 Secretary exercises the cost recovery authority
19 described in this section, the Secretary shall
20 prescribe a fee structure and assessment meth-
21 odology that is based on the costs of providing
22 these reviews and shall prescribe procedures to
23 collect fees under this section. The Secretary
24 shall not collect design safety review fees under
25 this chapter or section 60301.

1 “(B) PROJECTS TO WHICH APPLICABLE.—

2 Subparagraph (A) applies to any project that—

3 “(i) has design and construction costs
4 totaling at least \$4,000,000,000, as ad-
5 justed for inflation; or

6 “(ii) uses new or novel technologies or
7 design.

8 “(2) NOTIFICATION.—For any new pipeline
9 construction project in which the Secretary will con-
10 duct design reviews, the person or entity proposing
11 the project shall notify the Secretary and provide the
12 design specifications, construction plans and proce-
13 dures, and related materials at least 120 days prior
14 to the commencement of construction. Within 60
15 days of receiving such design specifications, con-
16 struction plans and procedures, the Secretary shall
17 provide written comments, feedback, and guidance
18 on such project.

19 “(3) DEPOSIT AND USE.—There is established
20 a Pipeline Safety Design Review Fund in the Treas-
21 ury of the United States. The Secretary shall deposit
22 funds paid under this subsection into the Fund.
23 Funds deposited under this subsection are author-
24 ized to be appropriated for the purposes set forth in
25 this chapter. Fees authorized under this subsection

1 shall be available for obligation only to the extent
2 and in the amount provided in advance in appropria-
3 tions Acts.”.

4 (b) GUIDANCE.—Not later than 1 year after the date
5 of enactment of this Act, the Secretary of Transportation
6 shall issue guidance to clarify the meaning of the term
7 “new or novel technologies or design” as used in section
8 60117(n) of title 49, United States Code, as amended by
9 subsection (a) of this section.

10 **SEC. 18. SPECIAL PERMITS.**

11 Section 60118(c)(1) is amended to read as follows:

12 “(1) ISSUANCE OF WAIVERS.—

13 “(A) IN GENERAL.—On application of an
14 owner or operator of a pipeline facility, the Sec-
15 retary by order may waive compliance with any
16 part of an applicable standard prescribed under
17 this chapter with respect to the facility on
18 terms the Secretary considers appropriate, if
19 the Secretary determines that the waiver is not
20 inconsistent with pipeline safety.

21 “(B) CONSIDERATIONS.—In determining
22 whether to grant a waiver, the Secretary shall
23 consider—

24 “(i) the applicant’s compliance his-
25 tory; and

1 “(ii) the applicant’s accident history.

2 “(C) EFFECTIVE PERIOD.—A waiver of
3 one or more pipeline operating requirements
4 shall be reviewed by the Secretary 5 years after
5 its effective date. In reviewing a waiver, the
6 Secretary shall consider any change in owner-
7 ship or control of the pipeline, any change in
8 the conditions around the pipeline, and other
9 factors as appropriate. The Secretary may mod-
10 ify, suspend, or revoke a waiver after such re-
11 view in accordance with subparagraph (E).

12 “(D) PUBLIC NOTICE AND HEARING.—The
13 Secretary may act on a waiver under this sub-
14 section only after public notice and an oppor-
15 tunity for a hearing, which may consist of pub-
16 lication of notice in the Federal Register that
17 an application for a waiver has been filed and
18 providing the public with the opportunity to re-
19 view and comment on the application. If a waiv-
20 er is granted, the Secretary shall state in the
21 order and associated analysis the reasons for
22 granting it.

23 “(E) NONCOMPLIANCE AND MODIFICA-
24 TION, SUSPENSION, OR REVOCATION.—After no-
25 tice to a holder of a waiver and opportunity to

1 show cause, the Secretary may modify, suspend,
2 or revoke a waiver issued under this subsection
3 for failure to comply with its terms or condi-
4 tions, intervening changes in Federal law, a ma-
5 terial change in circumstances affecting safety,
6 including erroneous information in the applica-
7 tion, or any other reason. If necessary to avoid
8 a significant risk of harm to persons, property,
9 or the environment, the Secretary may waive
10 the show cause procedure and make the action
11 immediately effective.”.

12 **SEC. 19. BIOFUEL PIPELINES.**

13 Section 60101(a)(4) is amended—

14 (1) by striking “and” after the semicolon in
15 subparagraph (A);

16 (2) by redesignating subparagraph (B) as sub-
17 paragraph (C); and

18 (3) by inserting after subparagraph (A) the fol-
19 lowing:

20 “(B) non-petroleum fuels, including
21 biofuels, that are flammable, toxic, or corrosive
22 or would be harmful to the environment if re-
23 leased in significant quantities; and”.

24 **SEC. 20. CARBON DIOXIDE PIPELINES.**

25 Section 60102(i) is amended to read as follows:

1 “(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—
2 The Secretary may, after public notice and opportunity
3 for a hearing, prescribe minimum safety standards to reg-
4 ulate as a hazardous liquid the transportation of carbon
5 dioxide by pipeline in either a liquid or gaseous state.”.

6 **SEC. 21. STUDY OF THE TRANSPORTATION OF DILUTED BI-**
7 **TUMEN.**

8 Not later than 18 months after the date of enactment
9 of this Act, the Secretary of Transportation shall complete
10 a comprehensive review of hazardous liquid pipeline regu-
11 lations to determine whether these regulations are suffi-
12 cient to regulate pipelines used for the transportation of
13 diluted bitumen. In conducting this review, the Secretary
14 shall conduct an analysis of whether any increase in risk
15 of release exists for pipelines transporting diluted bitu-
16 men. The Secretary shall report the results of this review
17 to the Senate Committee on Commerce, Science, and
18 Transportation, and the House of Representatives Com-
19 mittee on Transportation and Infrastructure and Com-
20 mittee on Energy and Commerce.

21 **SEC. 22. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS**
22 **TRANSPORTED BY PIPELINE.**

23 The Secretary of Transportation may conduct an
24 analysis of the transportation of non-petroleum hazardous
25 liquids by pipeline for the purpose of identifying the extent

1 to which pipelines are currently being used to transport
2 non-petroleum hazardous liquids, such as chlorine, from
3 chemical production facilities across land areas not owned
4 by the producer that are accessible to the public. The anal-
5 ysis should identify the extent to which the safety of the
6 lines is unregulated by the States and evaluate whether
7 the transportation of such chemicals by pipeline across
8 areas accessible to the public would present significant
9 risks to public safety, property, or the environment in the
10 absence of regulation. The results of the analysis shall be
11 made available to the Senate Committee on Commerce,
12 Science, and Transportation and the House of Represent-
13 atives Committee on Transportation and Infrastructure
14 and Committee on Energy and Commerce.

15 **SEC. 23. CLARIFICATIONS.**

16 (a) AMENDMENT OF PROCEDURES CLARIFICA-
17 TION.—Section 60108(a)(1) is amended by striking “an
18 intrastate” and inserting “a”.

19 (b) OWNER AND OPERATOR CLARIFICATION.—Sec-
20 tion 60102(a)(2)(A) is amended by striking “owners and
21 operators” and inserting “any or all of the owners or oper-
22 ators”.

23 **SEC. 24. ADDITIONAL RESOURCES.**

24 (a) IN GENERAL.—To the extent funds are appro-
25 priated, the Secretary of Transportation shall increase the

1 personnel of the Pipeline and Hazardous Materials Safety
2 Administration by a total of 39 full-time employees to
3 carry out the pipeline safety program and the administra-
4 tion of that program, of which—

5 (1) 9 employees shall be added in fiscal year
6 2011;

7 (2) 10 employees shall be added in fiscal year
8 2012;

9 (3) 10 employees shall be added in fiscal year
10 2013; and

11 (4) 10 employees shall be added in fiscal year
12 2014.

13 (b) FUNCTIONS.—In increasing the number of em-
14 ployees under subsection (a), the Secretary shall hire em-
15 ployees—

16 (1) to conduct data collection, analysis, and re-
17 porting;

18 (2) to develop, implement, and update informa-
19 tion technology;

20 (3) to conduct inspections of pipeline facilities
21 to determine compliance with applicable regulations
22 and standards;

23 (4) to provide administrative, legal, and other
24 support for pipeline enforcement activities; and

1 (5) to support the overall pipeline safety mis-
2 sion of the Pipeline and Hazardous Materials Safety
3 Administration, including training of pipeline en-
4 forcement personnel.

5 **SEC. 25. MAINTENANCE OF EFFORT.**

6 Section 60107(b) is amended to read as follows:

7 “(b) PAYMENTS.—After notifying and consulting
8 with a State authority, the Secretary may withhold any
9 part of a payment when the Secretary decides that the
10 authority is not carrying out satisfactorily a safety pro-
11 gram or not acting satisfactorily as an agent. The Sec-
12 retary may pay an authority under this section only when
13 the authority ensures the Secretary that it will provide the
14 remaining costs of a safety program and that the total
15 State amount spent for a safety program (excluding
16 grants of the United States Government) will at least
17 equal the average amount spent for gas and hazardous
18 liquid safety programs for fiscal years 2004 through 2006,
19 except when the Secretary waives the requirements of this
20 subsection. The Secretary shall grant such a waiver if a
21 State can demonstrate an inability to maintain or increase
22 the required funding share of its pipeline safety program
23 at or above the level required by this subsection due to
24 economic hardship in that State.”.

1 **SEC. 26. ADMINISTRATIVE ENFORCEMENT PROCESS.**

2 (a) ISSUANCE OF REGULATIONS.—

3 (1) IN GENERAL.—Not later than two years
4 after the date of enactment of this Act, the Sec-
5 retary shall prescribe regulations—

6 (A) requiring hearings under sections
7 60112, 60117, 60118, and 60122 to be con-
8 vened before a presiding official;

9 (B) providing the opportunity for any per-
10 son requesting a hearing under section 60112,
11 60117, 60118, or 60122 to arrange for a tran-
12 script of that hearing, at the expense of the re-
13 questing person;

14 (C) ensuring an order issued under
15 60112(e) provides an opportunity for a hearing
16 within 20 calendar days after the order is
17 issued, unless good cause is shown; and

18 (D) implementing a separation of functions
19 between personnel involved with investigative
20 and prosecutorial activities and advising the
21 Secretary on findings and determinations.

22 (2) PRESIDING OFFICIAL.—The regulations pre-
23 scribed under this subsection shall—

24 (A) define the term “presiding official” to
25 mean the person who conducts any hearing re-
26 lating to civil penalty assessments, compliance

1 orders, safety orders, or corrective action or-
2 ders; and

3 (B) require that the presiding official must
4 be an attorney on the staff of the Deputy Chief
5 Counsel that is not engaged in investigative or
6 prosecutorial functions, including the prepara-
7 tion of notices of probable violations, orders re-
8 lating to civil penalty assessments, compliance
9 orders, or corrective action orders.

10 (b) STANDARDS OF JUDICIAL REVIEW.—Section
11 60119(a) is amended by adding at the end the following
12 new paragraph:

13 “(3) All judicial review of agency action under this
14 section shall apply the standards of review established in
15 section 706 of title 5.”.

16 **SEC. 27. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) GAS AND HAZARDOUS LIQUID.—

18 (1) Section 60125(a)(1) is amended by striking
19 subparagraphs (A) through (D) and inserting the
20 following:

21 “(A) For fiscal year 2011, \$92,206,000, of
22 which \$9,200,000 is for carrying out such sec-
23 tion 12 and \$36,958,000 is for making grants.

1 “(B) For fiscal year 2012, \$96,144,000, of
2 which \$9,600,000 for carrying out such section
3 12 and \$39,611,000 is for making grants.

4 “(C) For fiscal year 2013, \$99,876,000, of
5 which \$9,900,000 is for carrying out such sec-
6 tion 12 and \$41,148,000 is for making grants.

7 “(D) For fiscal year 2014, \$102,807,000,
8 of which \$10,200,000 is for carrying out such
9 section 12 and \$42,356,000 is for making
10 grants.”.

11 (2) Section 60125(a)(2) is amended by striking
12 subparagraphs (A) through (D) and inserting the
13 following:

14 “(A) For fiscal year 2011, \$18,905,000, of
15 which \$7,562,000 is for carrying out such sec-
16 tion 12 and \$7,864,000 is for making grants.

17 “(B) For fiscal year 2012, \$19,661,000, of
18 which \$7,864,000 is for carrying out such sec-
19 tion 12 and \$7,864,000 is for making grants.

20 “(C) For fiscal year 2013, \$20,000,000, of
21 which \$8,000,000 is for carrying out such sec-
22 tion 12 and \$8,000,000 is for making grants.

23 “(D) For fiscal year 2014, \$20,000,000, of
24 which \$8,000,000 is for carrying out such sec-
25 tion 12 and \$8,000,000 is for making grants.”.

1 (b) EMERGENCY RESPONSE GRANTS.—Section
2 60125(b)(2) is amended by striking “2007 through 2010”
3 and inserting “2011 through 2014”.

4 (c) ONE-CALL NOTIFICATION PROGRAMS.—Section
5 6107 is amended—

6 (1) by striking “2007 through 2010.” in sub-
7 section (a) and inserting “2011 through 2014.”;

8 (2) by striking “2007 through 2010.” in sub-
9 section (b) and inserting “2011 through 2014.”; and

10 (3) by striking subsection (c).

11 (d) STATE DAMAGE PREVENTION PROGRAMS.—Sec-
12 tion 60134 is amended by adding at the end the following:

13 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary to pro-
15 vide grants under this section \$2,000,000 for each of fiscal
16 years 2011 through 2014. The funds shall remain avail-
17 able until expended.”.

18 (e) COMMUNITY PIPELINE SAFETY INFORMATION
19 GRANTS.—Section 60130 is amended—

20 (1) by striking “\$50,000” in subsection (a)(1)
21 and inserting “\$100,000”; and

22 (2) by striking “2003 through 2010. Such
23 amounts shall not be derived from user fees collected
24 under section 60301.” in subsection (d) and insert-
25 ing “2011 through 2014.”.

1 (f) PIPELINE TRANSPORTATION RESEARCH AND DE-
2 VELOPMENT.—Section 12 of the Pipeline Safety Improve-
3 ment Act of 2002 (49 U.S.C. 60101 note) is amended—

4 (1) by adding at the end of subsection (d) the
5 following:

6 “(3) ONGOING PIPELINE TRANSPORTATION RE-
7 SEARCH AND DEVELOPMENT.—After the initial 5-
8 year program plan has been carried out by the par-
9 ticipating agencies, the Secretary of Transportation
10 shall prepare a research and development program
11 plan every 5 years thereafter and shall transmit a
12 report to Congress on the status and results-to-date
13 of implementation of the program each year that
14 funds are appropriated for carrying out the plan.”;
15 and

16 (2) by striking “2003 through 2006.” in sub-
17 section (f) and inserting “2011 through 2014.”.